

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 04-43

March 30, 2004

TO : All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM : Richard A. Siegel, Associate General Counsel

SUBJECT: Revisions to GC Policy Regarding Use of Internet E-mail
By Outside Parties To Submit Documents To Regional Offices
--Representation Case Documents

In March 2004, the Board expanded its E-Filing Project, which permits the electronic filing of documents with the Board through the Agency's Web site, to include all documents filed with the Board in representation cases.¹ In order to ensure consistency between the Board's E-filing project and the General Counsel's policy with respect to filing documents through E-mail, we are expanding the use of E-mail by outside parties to include the Internet E-mail receipt in Regional Offices of certain representation case documents. Specifically, a party may now serve, by Internet E-mail to the Region's mailbox, the following **representation case documents** when such documents are being filed electronically with the Board:

- Exceptions to Post-Election Reports/Decisions to the Board
- Requests for Review
- Requests for Special Permission to Appeal Regional Director's Decision/Order
- Briefs to the Board
- Motions to the Board (all types)
- Other Requests to the Board (all types)
- Oppositions to Requests or Motions to the Board

A hard copy of the above-described documents need not be served on the Regional Office if a copy of the original is transmitted to Region's mailbox by E-mail. However, the following five requirements must be met:

1. E-FILINGS MUST BE TIMELY. Such filings must comply with all applicable time requirements including [Section 102.111\(b\)](#).

¹ OM 04-31, "Expansion of the Board's E-Filing Project To Include All Representation Case Documents," dated February 27, 2004. Representation cases that are consolidated with unfair labor practice cases are treated as unfair labor practice cases for the purposes of the E-Filing Project.

2. PREFERRED DOCUMENT FORMAT IS PDF. The preferred format for submitting the listed representation case documents is Adobe's Portable Document Format (*.pdf). However, in order to make the system more widely available to the public, persons who do not have the ability to submit documents in PDF format may submit documents in Microsoft Word format (*.doc). Persons who do not have the ability to submit documents in either PDF or Microsoft Word format may submit documents in simple text format (*.txt). Such documents submitted electronically must be (1) in a "read only" format and (2) free from any computer virus.

3. DOCUMENTS MUST BE COMPLETE. Any such representation case document submitted via Internet E-mail must be complete. Any attachments must be converted into electronic form and included as part of the document. No attachments may be filed (either electronically or by service of "hard copy") separately from the electronic document under any circumstances.²

4. ALL DOCUMENTS MUST INCLUDE STATEMENT OF SERVICE. Any document submitted via Internet E-mail must be served on the parties. A statement of service must be included in the document pursuant to the expedited service requirements of [Section 102.114\(i\)](#) of the Board's Rules and Regulations. Depending on the means of service, the statement of service should include the address and fax number of the individuals and parties served.

5. COPIES OF LONG DOCUMENTS MUST BE SUBMITTED SEPARATELY. Documents of fifteen (15) pages in length or less, including attachments, may be submitted via Internet E-mail. Documents over fifteen (15) pages in length may be submitted via Internet E-mail provided that an original of the document is promptly submitted via personal service or overnight delivery service, and are received by the Regional Office no later than three (3) business days after the date of the electronic filing of that document with the Board as set forth on the acknowledgement from the Office of Executive Secretary of the Board.

The attachment that Regional Offices send to parties with the initial docket letters describing the General Counsel's E-mail and Casehandling policy has been revised to reflect this change. Regions should immediately begin using the revised attachment (attached hereto), which must be edited to include the Region's E-mail address.

If you have any questions regarding this memorandum, please contact your Assistant General Counsel or Deputy or the undersigned.

/s/
R.A.S.

cc: NLRBU
Release to the Public

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² If the attachments cannot be forwarded electronically, the entire document with attachments must be sent by mail, overnight delivery service or personal service.

**COMMUNICATIONS WITH REGIONAL, SUBREGIONAL AND RESIDENT OFFICES AND
BOARD AGENTS BY E-MAIL**

E-MAIL COMMUNICATIONS: To encourage and facilitate the exchange of case handling information between the parties or their representatives and Board agents, individual Board agents' E-mail addresses will be made available to the parties. We encourage parties and/ or their representatives to provide the Regional, Subregional or Resident Office with their E-mail addresses. E-mail communications with a represented party generally will be through the party's attorney or other representative. If an outside party and/or its representative provides its E-mail address, Board agents will accept and send E-mail messages to arrange appointments, schedule witnesses and exchange other case-relevant information. Please note that a Board agent may be unable to access E-mails when he/she is away from the Regional office. If a party and/or its representative requests that communications not be sent by E-mail, Board agents will honor such request after receipt of the request in the Regional, Subregional or Resident Office.

E-MAIL DOCUMENTS: E-mails that contain a substantive discussion of the merits of a case, whether or not it contains attachments, are considered to be documents and must be submitted to the official E-mail box of the appropriate Regional, Subregional or Resident Office. The E-mail address for this office is:

_____.

The following are examples of documents that may be sent by E-mail to a Regional, Subregional or Resident Office:

Position Statements
Notices of Appearance
Requests for an Extension of Time For Filing
Of Documents Due to be Filed With
a Regional Director or Hearing Officer
Excelsior Lists
Observer Designations
Requests To Proceed
Withdrawal Requests
Disclaimers of Interest

REPRESENTATION CASE DOCUMENTS FILED ELECTRONICALLY WITH THE BOARD: With respect to the following **representation case documents filed electronically with the Board**, Regional Office will now accept service of electronic versions of the following documents when sent by E-mail to the Region's mailbox provided that such documents are submitted in accordance with E-Filing Project rules set forth below:

- Exceptions to Post-Election Reports/Decisions to the Board
- Requests for Review
- Requests for Special Permission to Appeal Regional Director's Decision/Order
- Briefs to the Board
- Motions to the Board (all types)
- Other Requests to the Board (all types)
- Oppositions to Requests or Motions to the Board

For the representation case documents electronically filed with the Board, a hard copy of the document need not be served on the Regional Office if a copy of the original is transmitted to Region's mailbox by E-mail. However, the following five requirements must be met:

1. E-FILINGS MUST BE TIMELY. Such filings must comply with all applicable time requirements including [Section 102.111\(b\)](#).

2. PREFERRED DOCUMENT FORMAT IS PDF. The preferred format for submitting the listed representation case documents is Adobe's Portable Document Format (*.pdf). However, in order to make the system more widely available to the public, persons who do not have the ability to submit documents in PDF format may submit documents in Microsoft Word format (*.doc). Persons who do not have the ability to submit documents in either PDF or Microsoft Word format may submit documents in simple text format (*.txt). Such documents submitted electronically must be (1) in a "read only" format and (2) free from any computer virus.

3. DOCUMENTS MUST BE COMPLETE. Any such representation case document must be complete. Any attachments must be converted into electronic form and included as part of the document. No attachments may be filed (either electronically or by service of "hard copy") separately from the electronic document under any circumstances.¹

4. ALL DOCUMENTS MUST INCLUDE STATEMENT OF SERVICE. Any document submitted via Internet E-mail must be served on the parties. A statement of service must be included in the document pursuant to the expedited service requirements of [Section 102.114\(i\)](#) of the Board's Rules and Regulations. Depending on the means of service, the statement of service should include the address and fax number of the individuals and parties served.

5. COPIES OF LONG DOCUMENTS MUST BE SUBMITTED SEPARATELY.

Documents of fifteen (15) pages in length or less, including attachments, may be submitted via Internet E-mail. Documents over fifteen (15) pages in length may be submitted via Internet E-mail provided that an original of the document is promptly submitted via personal service or overnight delivery service, and are received by the Regional Office no later than three (3) business days after the date of the electronic filing of that document with the Board as set forth on the acknowledgement from the Office of Executive Secretary of the Board.

REQUIREMENTS FOR ALL OTHER PERMITTED DOCUMENTS:

Documents should be in a "read only" format that ensures that the attachment may not be modified or altered. Because documents sent to a Regional, Subregional or Resident Office by E-mail may, on occasion, not be received by that office either because of an incorrect E-mail address, computer viruses or other technical problems, a hard copy of a document submitted to a Regional, Subregional or Resident Office by E-mail must always also be mailed or faxed to that office.

ATTACHMENTS: The NLRB utilizes the Microsoft Office suite of software. An attachment to an E-mail message sent to a Regional, Subregional or Resident Office must be in an electronic format that may be opened, read and printed by that office. Microsoft WORD documents must bear the suffix ".doc"; other documents must be named in a fashion to permit their recognition by the Microsoft suite of software, e.g., ".ppt" (PowerPoint) or ".xls" (Excel). The responsibility for the receipt and usability of a document rests exclusively upon the sender.

UNACCEPTABLE E-MAIL TRANSMISSIONS: Outside parties may not electronically transmit to a Regional, Subregional or Resident Office any of the following documents:

Election Objections

¹ If the attachments cannot be forwarded electronically, the entire document with attachments must be sent by mail, overnight delivery service or personal service.

Representation Case Briefs to the Regional Director/ Hearing Officer
 Briefs to Administrative Law Judges
 Unfair Labor Practice Exceptions and Briefs to the Board
 Answers to Complaints
 Motions for Summary Judgment
 Petitions to Revoke Subpoenas
 Unfair Labor Practice Charges and
 Representation Petitions

These documents are time-sensitive and timely receipt is occasionally disputed. Because E-mail may not be received for a variety of reasons, including an incorrect E-mail address or virus protections on the Agency's computer network, receipt by the Regional, Subregional or Resident Office may be delayed or prevented altogether. In addition, these documents tend to be lengthy and may impose a burden on the Agency's computer system. Accordingly, it is not administratively feasible to accept them. For these reasons, at this time, the General Counsel has decided not to accept receipt of the foregoing documents as E-mail messages or as attachments to E-mail messages. Therefore, attempts to deliver them by E-mail will not be recognized.

SUBJECT LINE: To facilitate the identification of the type of communication or document being transmitted to a Regional Office or a Board agent, outside parties and representatives are requested to place in the subject line of the E-mail message the case name, case number and a brief description of the communication or the document being sent, i.e., position statement, affidavit or scheduling of appointment. Similarly, Board agents will include similar information when sending E-mails to parties or their representatives.

OFFICIAL BUSINESS: Outside parties may send electronic communications to Regional, Subregional and Resident Offices dealing only with official Agency business. E-mails to Board agents or Regional, Subregional or Resident Offices not dealing with official Agency business, such as those soliciting business or advertising products or services, are strictly prohibited.

COMPUTER VIRUSES: Outside parties communicating with Board agents or Regional, Subregional or Resident Offices are requested to take all reasonable steps to prevent sending any material to the Agency that contains computer viruses or other matters that may be harmful to the Agency's information technology systems.